

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9619 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DINESHKUMAR G KHANKAR

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner
Mr. D.A. Bambhaniya, learned Addl.G.P. for the
respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 16/12/96

ORAL JUDGMENT :

Gujarat Public Service Commission ("GPSC" for short) has conducted a combined competitive examination in the year 1992 to select candidates for appointment to the post of Assistants and Sales Tax Inspectors. On the basis of this combined competitive examination a select list was prepared on 30.7.93 wherein petitioner's name was included in the waiting list at Sr. No.29.

Petitioner claiming appointment on the basis of this waiting list of 1993 preferred this Special Civil Application in this court on 26.11.96 and had come with a specific case that even now that waiting list is being acted upon by the Government and 13 candidates from the aforesaid waiting list are being appointed by the respondents. He also came with the case that the petitioner was entitled to appointment as a Socially and Educationally Backward Class candidate.

Rule as well as notice as to interim relief was issued by this court on 27.11.96

Mr.Bambhaniya,learned Addl.G.P. has entered appearance on behalf of respondents and has pointed out that new select list has already been prepared by the GPSC on 8.11.96 and the earlier waiting list, on the basis of which the petitioner is claiming appointment, is not being acted upon after the availability of the new select list of the GPSC. He has also invited my attention to a memorandum issued by the GAD on 21.7.81 according to which the waiting list based on any selection comes to an end with the availability of new select list. He has also pointed out that earlier select list included 8 candidates belonging to Socially and Educationally Backward Classes and one Shri Patel Naresh Ganpatlal shown at Sr.No.26, who too is a Socially and Educationally Backward Class candidate and is having a claim preferential to the petitioner being at a higher position in the waiting list, has not been appointed and there is no question of his appointment too now with the availability of the new select list prepared by GPSC on 8.11.96.

Mr.Supehia appearing on behalf of the petitioner has further raised a grievance with regard to the increase in the reservation quota from 10 to 27 % in case of SCBC candidates. He has referred to the Resolution dated 30.9.94. This Resolution is apparently subsequent to the date of the earlier select list dated 30.7.93. In such circumstances it appears that the petitioner had not come with a full and complete disclosure of the relevant facts and obtained a rule nisi issued in his favour on account of non disclosure of relevant and material facts. In any case, the petitioner's claim is not found to be tenable so far as this petition is concerned. It is also admitted by Mr. Supehia that petitioner had not applied in the selection on the basis of which the GPSC has prepared the present select list dated 8.11.96 and, therefore, he has no locus standi to raise any grievance with regard to the present selection on the basis of

which GPSC has prepared the select list dated 8.11.96 and hence the grievance with regard to the increase from 10 to 27% in case of SEBC candidates vide resolution dated 30.9.94 is of no avail to the petitioner as this Resolution was not even in existence at the time when the earlier select list was prepared in the year 1993 on the basis of notice inviting applications issued by GPSC in the year 1992.

Grievance has also been raised that the new select list is only with regard to the cadre of Assistants. That may be so, but in view of the statement made by Mr. Bambhaniya that all the 8 posts, which were there under consideration at the time when the selections were held in the year 1992 and select list was prepared in 1993, have been filled in and as such there is no vacancy on account of the earlier advertisement, against which the petitioner may have any claim, this argument raised on behalf of the petitioner is absolutely futile and there is no question of entering into an exercise in futility.

I do not find any substance in this Special Civil Application and the same is hereby dismissed. Rule is hereby discharged with no order as to costs.